

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Stephen and Jennifer Page, (Paul Bourke, builder)  
8 Melissa Lane, Steep Falls, ME 04085

**Date Application filed with the Town Clerk:** April 6, 2007

**Nature of request:** The applicant seeks a Special Permit to renew ZBA FY2005-00013, approval of a flag lot, under Sections 3.2832 and 6.3 of the Zoning Bylaw, at 291 Potwine Lane (Map 23A, Parcel 38, R-O and R-LD/FC Zoning District)

**Legal notice:** Published on April 11 and 18, 2007 in the Daily Hampshire Gazette and sent to abutters on April 13, 2007.

**Board members:** Barbara Ford, Ted Rising and Al Woodhull

**Submissions:** The applicant submitted the following:

- A site plan of the flag lot prepared by Charles Dauchy, environmental consultant, that showed the buildable area on the lot, the wetland boundaries and the shared driveway. The plan is undated but was approved by the ZBA on 10/17/06 for the final footprint of the house on the adjacent flag lot to the east;
- A copy of the common driveway easement and agreement for this flag lot and the flag lot to the east.

Zoning staff submitted a memorandum dated May 3, 2007 outlining the farmland conservancy zoning requirements, the wetlands delineation and the order of conditions issued by the Conservation Commission on October 18, 2005.

**Site Visit:** May 2, 2007

Paul Bourke of Bourke Builders met the Board at the site. The lot under consideration is flat, north of a large open farm area with wetlands, and abutting new houses to the east and north. The pole of the lot under consideration abuts the pole of the flag lot to the east, and the shared driveway will be built on the pole of the applicant's lot. The parcel is near Middle Street, where the Town sewer lines were extended recently.

**Public Hearing:** May 3, 2007

Paul Bourke represented the applicants at the hearing. He gave the following information:

- The ZBA had approved the previous permit request for two flag lots, ZBA FY2005-00013;
- One of the two lots now has construction on it.
- Because no building had occurred for the applicants' lot within the two years as required by the Zoning Bylaw, the permit for the flag lot has expired;
- The shared driveway for the two flag lots is located on the applicant's pole to the lot;
- Utilities, water and sewer are laid for both lots using both poles;

- Geo-thermal pipes are set down the middle for the other flag lot, not the Page's lot;
- The surface of the driveway will be permeable;
- The barn on the applicant's property may or may not be torn down;
- He will return to the Board for the final placement of the house, which will be within the buildable area shown on the submitted site plan;
- He would like the Board to waive the 16 foot surface requirement for the shared driveway, Section 7.712 of the Zoning Bylaw;
- He is building both homes that share the driveway, and he'd like a 12 foot driveway, with 2 foot gravel shoulders on either side;
- The driveway will have an addition at the end of the shared driveway as shown on the submitted plan, which is an enlarged turning radius for emergency vehicles.

Mr. Rising said that, in his opinion, the driveway width should remain at 16 feet, as required by the Zoning Bylaw. If the two owners who share the driveway wish to request a change to its width, then they should make that request together.

Roger Webb, 293 Potwine Lane, said that he is the owner of the other flag lot that shares the driveway. He said that the shared part of the driveway is relatively short, there are only 2 houses, and visibility is perfect, and he sees no necessity to a 16- foot driveway. He is concentrating on "green" building and wishes to retain the rural look of the area. He definitely wants a narrower driveway, adding that such a wide driveway does not make sense in this case.

Mr. Bourke added that the Bylaw allows for a 400 foot long shared driveway, but this one will be just over 160 feet long. Given the short length and 100% visibility, the Board doesn't need to push the width to the maximum either.

Mr. Rising made a motion to close the evidentiary portion of the public hearing. Mr. Woodhull seconded the motion and the Board voted unanimously to close the hearing.

#### **Public Meeting - Discussion:**

The Board discussed the permit and agreed that the builder should not come in at the last minute to request a waiver to the driveway width required in the Zoning Bylaw. The owners of the two flag lots should request the waiver together, as a modification of this permit, if they so desire

The Board discussed the conditions and findings of the previous Special Permit for the flag lot – ZBA FY2005-00013. They agreed that there were no significant changes to the conditions of the previous permit, and that the findings of the previous permit have not changed at all.

#### **Public Meeting - Findings:**

Under Section 6.3, Flag Lots, and Section 3.2832, Farmland Conservation, the Board finds that all dimensional requirements are met. For this flag lot, the frontage is 40.13 feet, the pole length is 200.67 feet and the buildable lot area is 30,000 square feet.

Under Section 10.38 of the Zoning Bylaw, Specific Findings, the Board finds that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed, given that Potwine Lane contains single-family and two-family homes on varying size lots. The restriction of the lot size in a FC district protects the agricultural land as much as possible.

10.383 & 10.387– The proposal would not be a substantial inconvenience or hazard to vehicles or pedestrians, in that the shared, straight driveway has good sight-lines in both directions. Access is convenient, and the driveway intersects the street line at a ninety degree angle.

10.384 & 10.389 – Adequate facilities are provided in that water and sewer is now available to the site. The single-family residences that will be constructed should not present any unusual issues relative to storage, waste or surface drainage.

10.390 & 10.391 – The proposal ensures protection from water or erosion with the delineation of the wetlands plus controlling the size of the lot and location of the house. The unique scenic features and farmland are reasonably protected by the single-family house requirement and the requirements of the FC district.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw in that the design of the flag lot was done with the intent of preserving the agricultural assets of Amherst while allowing for additional housing.

**Public Meeting - Zoning Board Decision:**

Ted Rising moved to approve the renewal of the application, with conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board voted unanimously to renew Special Permit ZBA FY2005-00013, creation of a flag lot, under Sections 3.2832 and 6.3 of the Zoning Bylaw, at 291 Potwine Lane (Map 23A, Parcel 38, R-O and R-LD/FC Zoning District), with conditions.

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BARBARA FORD

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EDWARD RISING

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ALBERT WOODHULL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2007.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2007  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
in the Hampshire County Registry of Deeds.

**Town of Amherst  
Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Stephen and Jennifer Page to renew Special Permit ZBA FY2005-00013, approval of two flag lots, under Sections 3.2832 and 6.3 of the Zoning Bylaw, at 291 Potwine Lane (Map 23A, Parcel 38, R-O and R-LD/FC Zoning Districts), subject to the following conditions:

1. The flag lot shall be configured as shown on the plan approved at the public hearing of August 1, 2002 and on file in the zoning office of the Planning Department.
2. The flag lot shall be restricted to a single-family dwelling.
3. The lot and the other flag lot adjacent to it shall be served by a single shared common driveway.
4. Prior to the issuance of a building permit, the applicant shall submit to the ZBA an updated Order of Conditions, issued by the Conservation Commission if the current Order of Conditions has expired (expiration date, October 2008).
5. Prior to the issuance of a building permit, the applicant shall submit a site plan showing the location of the proposed house, all proposed exterior lighting, the common driveway, drainage information related to the construction of the new house and driveway, and any proposed new plantings.
6. Maintenance of the common driveway shall be as described on the Maintenance Plan and approved by the Board at a public meeting on May 3, 2007.
7. This Special Permit is subject to Section 14 of the Zoning By-Law, Phased Growth. Development authorization is available as of June, 2007.

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BARBARA FORD, Chair  
Amherst Zoning Board of Appeals

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DATE